

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DANNY ANDREW YOUNG,

Petitioner,

vs.

BRIAN WILLIAMS, *et al.*,

Respondents.

2:13-cv-01739-JCM-PAL

ORDER

This habeas matter comes before the court for consideration of possible issuance of a certificate of appealability following upon the filing of a notice of appeal. The court dismissed this action as duplicative of petitioner's currently pending first-filed action in No. 2:12-cv-00524-JCM-NJK.

At the outset, with deference to the authority of the court of appeals with regard to matters concerning its own jurisdiction, it appears that the notice of appeal is untimely. Final judgment was entered on May 27, 2014, and the certificate of service on the notice of appeal is dated July 2, 2014.


Turning to consideration of a certificate of appealability, when the district court denies relief on procedural grounds without reaching the underlying constitutional claims, the petitioner must show in order to obtain a certificate of appealability that jurists of reason would find it debatable whether the petition stated a valid claim of a denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its ruling. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). While both showings must be made,

1 "a court may find that it can dispose of the application in a fair and prompt manner if it
2 proceeds first to resolve the issue whose answer is more apparent from the record and
3 arguments." 529 U.S. at 485.

4 Jurists of reason would not find debatable the district court's dismissal of this clearly
5 duplicative action. The court's dismissal order outlined why the dismissal of this duplicative
6 action without prejudice would not otherwise result in collateral prejudice to petitioner. See
7 #3, at 2-3. There is no basis in either law or common sense for pursuing this needless
8 second action. A court clearly has the authority to eliminate duplicative litigation in applying
9 limited judicial resources, where prejudice will not accrue to the litigant.

10 IT THEREFORE IS ORDERED that a certificate of appealability is DENIED. The clerk
11 shall provide electronic notice of this order to the court of appeals in the customary manner.

12 DATED: July 15, 2014.

13
14
15 
16 _____
JAMES C. MAHAN
United States District Judge
17
18
19
20
21
22
23
24
25
26
27
28